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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,478	09/05/2003	Hassan Mostafavi	VM 03-009-US	8695
55499 7590 11/15/2010 Vista IP Law Group (Varian) 1885 Lundy Ave, Suite 108 San Jose, CA 95131				
EXAMINER				
ALLISON, ANDRAE S				
ART UNIT		PAPER NUMBER		
2624				
MAIL DATE		DELIVERY MODE		
11/15/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/656,478	Applicant(s) MOSTAFAVI, HASSAN
Examiner ANDRAE S. ALLISON	Art Unit 2624

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 October 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-66.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). 8/14/2010; 10/23/2010
13. ☐ Other: _____.

/Vu Le/
Supervisory Patent Examiner, Art Unit 2624

Continuation of 11, does NOT place the application in condition for allowance because: In response to Applicant's arguments on page 12 that the combination of Hipp and Ito fails to disclose "enhancing and image if the object moves relative to a stationary object", the Examiner disagrees. Hipp clearly teaches this limitation because the background is usually stationary; therefore the object would be enhanced relative to a relatively stationary object (see Fig 4a).

Applicant also argued combining Hipp and Ito to reject the limitation "the act of enhancing is accomplished at least in part by performing image averaging and image subtraction" as recited claim 1 is not correct. Specifically, Applicant stated "the imaging averaging technique of Hipp is a sub-step of a method that is specifically for tracking a moving object in a video while the image subtraction technique of Ito is a sub-step of a completely different method that is specifically for processing images generated using different energies for improving the image of soft tissue". Again the Examiner disagrees with Applicant because the image subtraction technique of Ito was applied to Hipp for noise reduction. Therefore, one of ordinary skilled in the art would have combined both references because performing the noise reduction would increase the tracking capabilities of Hipp.

Applicant also argued that Holliman does not teach a composite image and therefore does not disclose a differential movement method, instead Holliman teaches a matching between a template and an input image. The Examiner, however disagrees because Holliman clearly teaches that differential method is used to create a composite image between the template (note that the template is an image) and the input image, therefore Applicant's arguments are groundless.

Over on page 16, Applicant argues that Abe fails to disclose "determining whether the image has moved does not require a determination of an amount of movement by the object" (claims 64-66), however, the Examiner disagrees. Abe discloses a method for detecting a moving object (see column 1, lines 8-9) wherein the act of determining whether the object has moved does not require a determination of an amount of movement by the object (see column 1, lines 43-55). Therefore, the combination of Hipp, Holliman and Abe as a whole discloses all the limitations of claims 64-66.